

Remarks/Arguments

Reconsideration for allowance of Claims 1 through 18 is requested for the reasons set forth herein.

In the Office Action, the Examiner has rejected Claims 1 through 18, as now presented, under 35 U.S.C. 102(e) as being anticipated by the disclosure in U.S. Patent Application Publication No. US 2005/0256577 A1 to Baumgartner et al. Independent Claims 1, 8 and 15 through 18 and the claims dependent on Claims 1 and 8 are believed to be allowable.

With respect to Claim 1, this claim recites a disc body having a disc body base surface with a center point having a base surface central normal vector extending therefrom and a disc body articulating surface opposite the disc body base surface and which is concave with respect to a first disc body plane parallel to the base plate central normal vector and the articulating surface being convex with respect to a second disc body plane parallel to the base plate central normal vector and orthogonal to the first disc body plane. In at least these respects, Claim 1 is believed to distinguish over Baumgartner et al. It is not clear from Baumgartner et al. that either one of the articulating parts includes a surface which is concave and convex with respect to the respective planes as defined in Applicant's Claim 1 and Baumgartner et al. fails to disclose the overall combination recited in the claim. Reconsideration for allowance of Claim 1 is therefore requested.

Claims 2 through 7 refer back to and further restrict Claim 1 and are believed to be allowable for the reasons set forth for the allowability of Claim 1.

Reconsideration for allowance of Claim 8 is requested. It is not clear from the disclosure of Baumgartner et al. that at least a substantial region of the disc body of the prosthetic disc has an articulating surface which is concave and convex. Reconsideration for allowance of Claim 8 and the claims dependent thereon is therefore also requested. Claims 9 through 12 have been amended to show proper dependency.

With regard to independent Claim 15, the overall combination of steps for installing a prosthetic disc comprising a disc body having the features set forth in Claim 1 is believed to be patentably distinct for the reasons set forth above in support of the patentability of Claim 1.

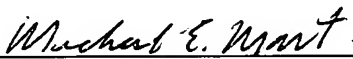
With regard to Claim 16, this claim recites the combination of first and second disc bodies, each having concave and convex surfaces along first and second planes, the articulating surfaces being mated along cooperating concave and convex regions in a manner which is not disclosed in or suggested by Baumgartner et al. Reconsideration for allowance of Claim 16 is requested.

It is not clear from the disclosure of Baumgartner et al. that, with regard to Claim 17, there is disclosure of first and second disc bodies having substantial regions of articulating surfaces which are each hyperbolic paraboloids and which are disposed in abutting relationship to form a saddle joint. Reconsideration for allowance of Claim 17 is therefore also requested.

With regard to Claim 18, the recitation of upper and lower bodies having concave and convex articulating surfaces forming a saddle joint by the reciprocal reception of surfaces of each body is also not believed to be disclosed in or suggested by Baumgartner et al.

It is indicated that the reference of record does not disclose in all respects the features set forth in independent Claims 1, 8 and 15 through 18. Accordingly, reconsideration for allowance of these claims and the claims dependent on Claims 1 and 8 is respectfully solicited.

Respectfully submitted,



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